

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ARTURO CHAIREZ,)	No. C 07-2643 MMC (PR)
)	
Petitioner,)	ORDER OF DISMISSAL; GRANTING
)	LEAVE TO PROCEED IN FORMA
v.)	PAUPERIS
)	
DARREL ADAMS, Warden,)	
)	
Respondent.)	(Docket Nos. 1 & 3)
_____)	

The above-titled action was opened on May 17, 2007, when petitioner, a California prisoner proceeding pro se, filed a motion "For Time Extension of Habeas Corpus Petition Under 2254 28 U.S.C.A. Fed. Rule Civil Procedure," in which petitioner seeks to "extend the deadline," imposed by the applicable statute of limitations for federal habeas petitions, with respect to a federal habeas petition he wishes to file in the future.

Article III, Section 2 of the United States Constitution restricts adjudication in federal courts to "Cases" and "Controversies." See Valley Forge Christian College v. Americans United for Separation of Church and State, Inc., 454 U.S. 464, 471 (1982). In the absence of an actual petition for a writ of habeas corpus or other civil complaint, there is no case or controversy for this Court to adjudicate. See Green v. United States, 260 F.3d 78, 82 (2d Cir. 2001). Although, in some instances, a motion may be construed to be a petition for a writ of habeas corpus, see id. at 83-84, petitioner here has not alleged any grounds for such relief, and indeed it is clear that he is not asking for relief from his conviction, but rather from the

1 statute of limitations.¹ Moreover, the Court cannot discern from the instant filing whether
2 petitioner can meet even the most basic requirements for proceeding with a habeas petition in
3 federal court and, in particular, in the Northern District, such as proper jurisdiction and
4 venue. Consequently, the motion will not be construed as a habeas petition.


5 Accordingly, the above-titled action is hereby DISMISSED without prejudice to
6 petitioner's filing a petition for a writ of habeas corpus or a complaint for other relief.

7 In light of petitioner's lack of funds, the application to proceed in forma pauperis is
8 GRANTED.

9 The Clerk shall close the file and terminate Docket Nos. 1 & 3.

10 IT IS SO ORDERED.

11 DATED: June 11, 2007

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13 MAXINE M. CHESNEY
14 United States District Judge
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27 ¹At such time as he files a petition for a writ of habeas corpus, petitioner may, of course,
28 raise any applicable grounds for relief from the statute of limitations.